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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/014,202	11/13/2001	Srinivas Gutta	US010572	2934
24737	7590	11/23/2009	EXAMINER	
PHILIPS INTELLECTUAL PROPERTY & STANDARDS			LASTRA, DANIEL	
P.O. BOX 3001			ART UNIT	PAPER NUMBER
BRIARCLIFF MANOR, NY 10510			3688	
MAIL DATE		DELIVERY MODE		
11/23/2009		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/014,202	GUTTA, SRINIVAS
	<b>Examiner</b> DANIEL LASTRA	Art Unit 3688

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If no period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on **04 September 2009**.  
 2a) This action is **FINAL**.      2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) **1,3-9,11-20 and 22-24** is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) **1,3-9,11-16 and 18-20** is/are allowed.  
 6) Claim(s) **17 and 22-24** is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_\_

4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date \_\_\_\_\_  
 5) Notice of Informal Patent Application  
 6) Other: \_\_\_\_\_

#### **DETAILED ACTION**

1. Claims 1, 3-9, 11-20, 22-24 have been examined. Application 10/014,202 (METHOD AND APPARATUS FOR RECOMMENDING ITEMS OF INTEREST BASED ON PREFERENCES OF A SELECTED THIRD PARTY) has a filing date 11/13/2001.

#### **Response to Amendment**

2. In response to Non Final Rejection filed 05/01/09, the Applicant filed an Amendment on 09/04/09, which amended claims 1, 7, 17-18, 23 and added new claim 24. Due to Board Decision filed 01/15/2009, claims 1, 3-9, 11-16 and 18-20 are allowed. The Applicant needs to fix the rejection of claims 17 and 22-24 under Section 101 in order for the Examiner to allow said claims.

#### ***Claim Rejections - 35 USC § 101***

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 17 and 22-24 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

With respect to claims 17 and 24, said claims are defined as system claims however, said claims only comprises non functional descriptive material per se, i.e. the element. See *In re Nuijten*, 84 USPQ2d 1495 where a machine is defined at least as "a concrete thing, consisting of parts, or of certain devices and combination of devices". In order to overcome the rejection for example claim 17 being a system claim needs to comprise an apparatus (i.e. computerized processor, memory). For example, claim 18 is

a system claim which comprises a memory and a processor. Claims 22-23 are defined as computer product claim however, the computer readable medium is only storing non functional descriptive material (i.e. instruction) without said non functional descriptive material being executed by a processor. For example, "computer readable medium comprising computer executable instructions that when executed on a processor performs the method".

***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 17 and 22-24 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As indicated above, the recited "element" is broad enough to encompass only data. As a result, no structural features are found. Thus it is not clear what, physically, this apparatus or device comprises.

***Response to Arguments***

5. Due to Board Decision filed 01/15/2009, claims 1, 3-9, 11-16 and 18-20 are allowed. The Applicant needs to fix the rejection of claims 17 and 22-24 under Section 101 in order for the Examiner to allow said claims.

***Conclusion***

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANIEL LASTRA whose telephone number is

571-272-6720 and fax 571-273-6720. The examiner can normally be reached on 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, ROBERT A WEINHARDT can be reached on (571)272-6633. The official Fax number is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/DANIEL LASTRA/  
Primary Examiner, Art Unit 3688  
November 21, 2009